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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/592,461	06/09/2000	MICHAEL J. NOVOSEL	RRE-P-00-001	4477

23560 7590 11/28/2001  
PATENTS & TMS, P.C.  
1914 NORTH MILWAUKEE AVENUE  
CHICAGO, IL 60647

EXAMINER

SMITS, TALIVALDIS IVARS

ART UNIT	PAPER NUMBER
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2641

DATE MAILED: 11/28/2001

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/592,461**

Applicant(s)  
**Michael J. Novosel, Jr. et al.**

Examiner  
**Talivaldis Ivars Smits**

Art Unit  
**2641**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 18, 2001
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. In response to the Office Action mailed June 18, 2001 applicants have submitted an Amendment, filed October 18, 2001, arguing that their abandoned parent application 08/289,257, filed August 11, 1994, which predates examiner's cited SoundTraxx DCC DSD 1996 art, teaches the claimed matter.

### *Response to Arguments*

2. Applicant's arguments have been fully considered but they are not persuasive, for the following reasons:

3. The quotation from lines 5-15 of page 8 of the '257 application (Amendment, p. 3) does not teach nor fairly suggest digital control **using bipolar digital signal packets** of propulsion, sound effects, and special effects for model trains. No such control packets are mentioned, and, at best, only sound effects and generic "activators" are found in the cited application text.

Neither (*per* argument on Amendment, p. 4) do these lines teach nor fairly suggest an **integrated sound, motor and special effects controller** controlled by said packets

4. The cited lines 2-5 of page 10 of the '257 application (Amendment, p. 3) do not specifically mention **predetermined addresses** at which a plurality of sound effect samples are

stored for playback.

5. The cited first paragraph of the invention summary on page 2, lines 17-19 of the '257 application (Amendment, p. 4) only mentions generic noises for model railroads, having no specific reference to nor suggestion of sounds of a locomotive **at various speeds and work loads**.

6. Since applicants do not submit further reasons for allowing the dependent claims, beyond noting that they cite additional limitations (Amendment, p. 5), all claims stay rejected.

***Claim Rejections - 35 USC***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in the prior Office Action (Paper No. 10).

***Claim Rejections - 35 USC § 102***

8. Claims 1-4, 7, 8-10, 12-16, 21-32, 37-40, 41-44, 45, and 49 rejected under 35 U.S.C. 102(a) as being anticipated by the 1996 SoundTraxx DCC Digital Sound Recorder, for reasons given in paragraph 5 of the previous Office Action..

***Claim Rejections - 35 USC § 103***

9. Claims 5, 33, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over SoundTraxx DCC DSD 1996 for reasons given in paragraph 7 of the previous Office Action.
10. Claims 6, 11, 17, 18, 20, 34-36 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over SoundTraxx DCC DSD 1996 as applied to claim 1, above, in view of applicants' acknowledged prior art, for reasons given in paragraph 8 of the previous Office Action.
11. Claims 19, 46, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over SoundTraxx DCC DSD 1996 as applied to claim 1, above, and further in view of Lord's NMRA Digital System Sound Unit circuit diagram, for reasons given in paragraph 9 of the previous Office Action.
12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. **Any response to this action should be mailed to:**

Box AF  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or FAXed to:**

(703) 872-9314 (please label *official* communications  
"EXPEDITED PROCEDURE"; please label *informal* or  
draft communications "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 2, 2121 Crystal Drive,  
Arlington, VA, Sixth Floor (Receptionist)..

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Talivaldis Ivars Smits, whose telephone number is (703) 306-3011. The examiner can normally be reached Mondays-Fridays from 8:30 a.m. to 5:00 p.m.

As of October 2, 2000 the former Technology Center 2700 has been split into two centers (TC 2100 and TC 2600), and former Art Unit 2741 has been designated as **Art Unit 2641**, which new AU number should be used in all future correspondence.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch, can be reached on (703) 305-6137. The facsimile phone number for Technology Center 2600 is (703) 872-9314.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2600 customer service, whose telephone number is (703) 306-0377.

A handwritten signature in black ink, appearing to read 'Tālivaldis Ivars Šmits', written in a cursive style.

**TĀLIVALDIS IVARS ŠMITS**  
**PRIMARY EXAMINER**

Art Unit 2641  
November 14, 2001